

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
Richmond Division

MARY LYNN MCCDOUGLE,  
Successor to  
Scott K. McDougale,

Plaintiff,

v.

Civil Action No. 3:19cv435

AMERICAN TOWER, INC.,  
a/k/a AMERICAN TOWER, LLC,

Defendant.

ORDER

By Orders entered herein on August 8, 2019 and August 29, 2019, AMERICAN TOWER'S MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM (ECF No. 7), PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT (ECF No. 14), and PLAINTIFF'S MOTION TO AMEND *AD DAMNUM* (ECF No. 26) were referred to Honorable David J. Novak for report and recommendation.

Having reviewed the REPORT AND RECOMMENDATION (ECF No. 33) entered herein on October 4, 2019, and there being no timely filed objections thereto, and the time for filing objections having expired, and having considered the record and the REPORT AND RECOMMENDATION and finding no error therein, it is hereby ORDERED that the REPORT AND RECOMMENDATION (Docket No. 33) is adopted on the basis of the reasoning of the REPORT AND RECOMMENDATION.

It is further ORDERED that:

(1) the plaintiff is permitted to file an Amended Complaint which shall be filed by October 31, 2019; and

(2) AMERICAN TOWER'S MOTION TO DISMISS FOR FAILURE TO STATE A CLAIM (ECF No. 7) is denied without prejudice to the refiling of a motion with respected to the forthcoming Amended Complaint; and

(3) PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT (ECF No. 14) is denied without prejudice to the refiling of a motion with respect to the forthcoming Amended Complaint; and

(4) PLAINTIFF'S MOTION TO AMEND *AD DAMNUM* (ECF No. 26) is denied as moot.

It is further ORDERED that the PLAINTIFF'S MOTION TO ENTER CONSENT ORDER (ECF No. 34) is denied as moot because of the foregoing rulings.

It is so ORDERED.

\_\_\_\_\_/s/ *REP*\_\_\_\_\_  
Robert E. Payne  
Senior United States District Judge

Richmond, Virginia  
Date: October 21, 2019